

IN THE UNITED STATES District Court
FOR THE DISTRICT OF DELAWARERichard D. TAYLOR,
PETITIONER

C.A. NO. 05-30 KAJ

V.

THOMAS L. CARROTT, et al;



RESPONDENTS

Petitioner's Response To RespondentsAnswer

Pursuant To THE Rules Governing § 2254 Actions,
28 U.S.C. foll. § 2254, Petitioner states the following In Response
to Respondents Answer To THE Petitioners Writ of Habeas
Corpus:

The Petitioner Contend that His Criminal History
and Violation of Supervision while out on parole did
not affect His ultimate Short Term Release Date. The Real
Substance of The Petitioners Complaint is The Fourteenth
Amendment Protects "Life, Liberty and Property" An interest
That is being Taken from Petitioner without Due
Process of law. (1)

The Petitioner Has A Liberty Interest In Receiving All Meritorious And Statutory Good Time.

The Petitioner Has Exceeded His Original Sentence In Such An Unexpected Manner As To Give Rise To Protection Of The Due Process Clause. See Soudon v. Conner 115 S.Ct. 2293 (1995). The Failure To Apply The Earned Good Time Credits And Statutory Good Time Entitlement Violates The Petitioner's Rights Of Equal Protection Of Law, And Affects Petitioner's Ultimate Release Date. Is Fundamentally Unfair And Amounts To Denial Of Due Process And Other Constitutional Rights. The Petitioner Has Completed One Full Round Of The State's Established Appellate Review System, Including A Petition For Discretionary Review When Available By The State's Highest Court Before Filing A Habeas Petition In Federal Court. See O'Sullivan v. Boerckel 119 S.Ct. 1728 (1999).

For The Sake Of A Lengthy Argument The Petitioner Request The Attention Of DELAWARE District Court To Review Attached Exhibit "A" In Its Entirety.

THE Record Of Parole Revocation Hearing And Petitioner's Institutional Record Indicates No Grounds In Which It Was Alleged To Exonerate Or Forfeit Any Earned Good Time Credits From The Petitioner. Wolf v. McDonnell, 94 S.Ct. 2963 (1974);

In Superintendent of Walpole v. Hill, 105 S. C.T.

2768(1985). A case in which the prison deprived an inmate of good time credits and thus Extended the duration of its custody is fundamentally unfair and Denial of Due Process and other Constitutional Rights Are Reviewable point's In this Case. See Sylvester V. Hanks, 140 F.3d 173 (7th Cir. 1998) (Habeas Corpus Statute is appropriate Remedy only when Prisoner Attacks Fact of Duration of "Custody"); Thomas v. McCaughtry, 201 F.3d 995 (7th Cir. 2000) (Loss of Prison good time Credits is Cognizable in Habeas Corpus proceeding). The Delaware statutory Entitlements for goodtime credits A liberty Interest for the petitioner's Early Release not only from Custody, But his original Sentence.

It can be established that the General Assembly Enacted Del. C. II Section 4346 To Entitle Prisoners for Parole who (A) Have Served $\frac{1}{3}$ of the Sentence Term imposed By the Court, (c) And for any Person Sentenced to imprisonment for life shall be Considered as having Been Sentenced To A fixed TERM OF 45 YEARS. Also 4348 of Title II, which is Entitled Rehearsal upon MERIT And Good Behavior Credits..... Prior to 1990, An Eligible Inmate could obtain Early Release In Two ways, Parole under Section 4346(A) By Conditional Release,

The Real Substance of Petitioner's Arguments is That He does not Fall Within The Application of The Truth-In Sentencing Act, Nor Should This Application be Applied Retroactively to 1971, which does violate The Ex post Facto Clause of Article I, §10. Prior Brethren of the Federal District Court's have clearly stated That Prisoners have a Protected Liberty Interest in their good Time Credits. See e.g., Sweeny v. Parke, 113 F.3d 716, 718 (7th Cir. 1997) (Holding That a Prisoner's Loss of good Time Credits is a deprivation of liberty Interest Protected By The Due Process clause); Meeks v. McBride 81 F.3d 717, 719 (7th Cir. 1996).

The Petitioner states that A Fixed Term of 45 years Sentence is Subjected To Termination and To allow The Judicial System of Delaware To Change The Mandatory language of Title II Section (4). The Department of Corrections have denied The Petitioner His Entitlement To Statutory Good Time and Conditional Release under Section 4348 Title II, Is a Violation of Petitioner Liberty Interest and Due Process. THE Petitioner Sentence has long Expired, and now being Illegally Detained.

In Each Release from Prison The Petitioner was Released on Parole, not Conditional Release. Even while Incarcerated The Petitioner participated in Prison Programs and work details has diminished The Fixed Term of 45 years, To The Shorter Term Release Date from

(45) years Downward Term. Let the Court take up the Question "What Process is Due?" with the Recognition that Meritorious good Time Credits and Statutory good Time Credits determine How long Someone Remains In States Custody. See Morrissey v. Brewer 42 S.C.T. 2593(1972)(length of confinement). Petitioner contends that he is Entitled to immediate Release from Confinement.

Generally, diminution of Confinement Credits are awarded Monthly as earned, But good time Conduct Credits are deducted in advance and only Rescinded if an inmate Misbehaves or a parolee violates Supervision Conditions and only during the Revocation Hearing is it Established on Record That the parolee is further punished by Forfeiture of His good time Credits, Such has never happen in the petitioner Case, Petitioner has served His original Sentence and to State otherwise would Result in Re-sentencing the Petitioner without Due Process and Substantial Fundamental Rights.

Conclusion

The Petitioner is entitled to an Evidentiary Hearing on the withholding of Earned and Statutory Good time from His Sentence in Violation of His Liberty Interest and Due Process Clause. The Petitioner has raised a legally cognizable claim upon which Relief May be granted, guaranteed by The, Fourteenth and Fifteenth Amendment's And Due Process clause of The United States Constitution and Delaware Constitution. The Petitioner Preys.

Dated: April 26, 2005

NOTE: Results of
2004 Parole Hearing
is Attached.

Sincerely Yours,
Richard D. Taylor
Richard D. Taylor
Delaware Correctional Center
1181 Paddock Road
Smyrna, Delaware
19977

Certificate of Service

I, Richard D Taylor, hereby certify that I have served a true and correct cop(ies) of the attached: Petitioner Response
To Respondent's Answer upon the following parties/person (s):

TO: Clerk of The Court TO: _____
United States District Court _____
For The District of Delaware _____
844 N. King Street _____
Wilmington, Delaware 19801 _____

TO: Mr. Greg Smith, Esq. TO: _____
State of Delaware _____
Department of Justice _____
State Office Building _____
820 N. French Street _____
Wilmington, Delaware 19801 _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977, postage to be paid by the Dept. Of Corrections.

On this 26th day of April, 2005

Richard D. Taylor

W.M. Richard Taylor



K.Y.C.
R.M.S.

Office of The Clerk
United States District Court
For The District of Delaware
844 N. King Street
Wilmington, Delaware 19801

